

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petitions:** See attached  
**Petitioner:** G. X. Thompson  
**Respondent:** Vigo County Assessor  
**Parcels:** See attached  
**Assessment Years:** 2012 and 2013

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated one 2012 and eight 2013 appeals with the Vigo County Assessor on February 19, 2013, and February 3, 2014, respectively.
2. The Vigo County Property Tax Assessment Board of Appeals (PTABOA) issued its determinations denying the Petitioner any relief on January 15, 2015, and January 16, 2015, respectively.
3. The Petitioner timely filed Petitions for Review of Assessment (Form 131s) with the Board.
4. The Board issued notices of hearing on December 5, 2016.
5. Administrative Law Judge (ALJ) Jennifer Bippus held the Board's consolidated administrative hearing on January 11, 2017.<sup>1</sup> She did not inspect the properties.
6. G. X. (Gary) Thompson appeared *pro se*. Vigo County Reassessment Supervisor Michael West appeared for the Respondent. Both were sworn and testified.

**Facts**

7. The properties under appeal are unimproved parcels located in Terre Haute.
8. The PTABOA determined the following assessments:

<b>Year</b>	<b>Parcel No.</b>	<b>Address</b>	<b>Land</b>	<b>Imp.</b>	<b>Total</b>
2012	84-06-22-254-025.000-002	328 North 14th	\$2,100	\$0	\$2,100
2013	84-06-22-254-025.000-002	328 North 14th	\$2,100	\$0	\$2,100

---

<sup>1</sup> Because the evidence and arguments were the same for the various parcels, the parties requested the Board hold a consolidated hearing.

2013	84-06-10-282-005.000-002	2881 North 16th	\$2,300	\$0	\$2,300
2013	84-06-10-429-010.000-002	2610 North 17th	\$2,800	\$0	\$2,800
2013	84-06-10-482-008.000-002	1541 Grand	\$4,400	\$0	\$4,400
2013	84-06-23-236-005.000-002	107 Oakland	\$2,700	\$0	\$2,700
2013	84-06-27-132-019.000-002	511 South 13th	\$5,900	\$0	\$5,900
2013	84-06-22-211-018.000-002	1472 Tippecanoe	\$4,000	\$0	\$4,000
2013	84-06-22-254-022.000-002	1355 Liberty	\$1,400	\$0	\$1,400

9. The Petitioner requested the following assessments at the hearing:

<b>Year</b>	<b>Parcel No.</b>	<b>Address</b>	<b>Land</b>	<b>Imp.</b>	<b>Total</b>
2012	84-06-22-254-025.000-002	328 North 14th	\$600	\$0	\$600
2013	84-06-22-254-025.000-002	328 North 14th	\$600	\$0	\$600
2013	84-06-10-282-005.000-002	2881 North 16th	\$500	\$0	\$500
2013	84-06-10-429-010.000-002	2610 North 17th	\$500	\$0	\$500
2013	84-06-10-482-008.000-002	1541 Grand	\$100	\$0	\$100
2013	84-06-23-236-005.000-002	107 Oakland	\$600	\$0	\$600
2013	84-06-27-132-019.000-002	511 South 13th	\$1,000	\$0	\$1,000
2013	84-06-22-211-018.000-002	1472 Tippecanoe	\$600	\$0	\$600
2013	84-06-22-254-022.000-002	1355 Liberty	\$600	\$0	\$600

### **Record**

10. The official record for this matter is made up of the following:

- a) Form 131s with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioner Exhibit 1: Letter from Lind Law Firm to Mr. Thompson dated November 11, 2014; Letter from Lind Law Firm to Mr. Thompson dated November 13, 2014; Quit-Claim Deed for 2604 North 17<sup>th</sup> Street dated September 22, 2014,  
 Petitioner Exhibit 2: General Warranty Deed for 1474 Tippecanoe Street dated May 1, 2008.

Respondent Exhibit 1: Property record card for 328 North 14<sup>th</sup> Street,  
 Respondent Exhibit 2: Property record card for 1472 Tippecanoe Street,  
 Respondent Exhibit 3: Property record card for 1355 Liberty Avenue,  
 Respondent Exhibit 4: Property record card for 2809 North 16<sup>th</sup> Street,  
 Respondent Exhibit 5: Property record card for 2610 North 17<sup>th</sup> Street,

Respondent Exhibit 6: Property record card for 1541 Grand Avenue,  
Respondent Exhibit 7: Property record card for 107 Oakland Avenue,  
Respondent Exhibit 8: Property record card for 511 South 13<sup>th</sup> Street.

Board Exhibit A: Form 131s with attachments,  
Board Exhibit B: Notices of Hearing dated December 5, 2016,  
Board Exhibit C: Hearing sign-in sheet.

d) These Findings and Conclusions.

### **Contentions**

11. Summary of the Petitioners' case:

- a) The subject properties' assessments are too high. While the Petitioner appealed the assessments of eight different parcels, the main contentions as to why those assessments are incorrect are generally the same. Mr. Thompson paid very little, if anything, for the properties. Additionally, two comparable properties, located at 2604 North 17<sup>th</sup> Street and 1474 Tippecanoe Street, indicate all eight parcels under appeal are incorrectly assessed. *Thompson argument; Pet'r Ex. 1, 2.*
- b) The properties under appeal are vacant and "worth very little." Mr. Thompson has owned the properties "since 2008 or before." Given the properties were acquired several years ago, the purchase price should be "trended to the year under appeal to compute the assessments." Mr. Thompson offered the following regarding each specific parcel:
  - The property located at 328 North 14<sup>th</sup> Street was "given" to Mr. Thompson by the City of Terre Haute because he owns property next door. This property should be assessed at \$600 for both 2012 and 2013.
  - The property located at 2881 North 16<sup>th</sup> Street "is a lot that came with a house." This property is worth \$500.
  - The property located at 2610 North 17<sup>th</sup> Street also "came with a house." This property was "given" to Mr. Thompson along with the "lot next door." Because the property was "given" to Mr. Thompson, this should be an indication the property "is not worth whatever the assessed value was," but "is certainly worth \$500."
  - The property located at 1541 Grand Street is "a little tiny lot" that once included a home, but the home burnt down "several years ago." Mr. Thompson currently mows the lawn and removes trash from the property. This property is "only worth \$100."

- Mr. Thompson purchased the property at 107 Oakland for \$250 because he had a “match” at 105 Oakland. This property is worth \$600.
- The property located at 511 South 13<sup>th</sup> Street once included a home, but Mr. Thompson “tore it down.” This property is worth \$1,000.
- Mr. Thompson purchased the property located at 1472 Tippecanoe in 2008 from Dr. Joe Huber for \$600.
- Finally, the property located at 1355 Liberty was “given” to Mr. Thompson by the City of Terre Haute. This property is worth “about \$600.”

*Thompson argument; Pet’r Ex. 1, 2.*

- c) With the exception of Dr. Huber, Mr. Thompson “did not know” any of the individuals he purchased the various properties from. Additionally, Mr. Thompson stated he “does not know” if the properties had been listed on the open market prior to him acquiring them. *Thompson testimony; Pet’r Ex. 1, 2.*

12. Summary of the Respondent’s case:

- a) The subject properties’ are correctly assessed. It appears the Petitioner’s acquisition of the properties were not arm’s-length transactions. Instead, the Petitioner acquired the various properties either through private transactions or gifts. Additionally, all of the transactions occurred prior to, or in 2008. Admittedly, the Respondent had “no other choice but to rely on the current assessments.” *West argument; Resp’t Ex. 1, 2, 3, 4, 5, 6, 7, 8.*

**Burden of Proof**

13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass’r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute as amended by P.L. 97-2014 creates two exceptions to that rule.
14. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
15. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing

authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d). This change was effective March 25, 2014, and has application to all appeals pending before the Board.

16. Here, the 2013 assessment appeals of eight properties are before the Board. For the property located at 328 North 14<sup>th</sup> the Petitioner also initiated a 2012 appeal. Thus, for purposes of determining who has the burden of proof, the Board will view the 328 North 14<sup>th</sup> property separately.
17. From 2011 to 2012 the 328 North 14<sup>th</sup> property’s total assessment remained at \$2,100 for both years. Thus, the Petitioner has the burden for the 2012 assessment year. The burden for the 2013 assessment year for this property will depend on the Board’s findings from the prior year’s appeal.
18. For the remaining seven properties, as previously stated only the 2013 assessment appeals are before the Board. At the hearing, there was no dispute the assessments of all seven properties either decreased or remained the same from 2012 to 2013. Additionally, this fact was confirmed after an examination of the various property record cards. Thus, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply, and the burden rests with the Petitioner.

### **Analysis**

19. The Petitioner failed to make a prima facie case for reducing the assessments.
  - a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
  - b) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2012 assessment, the valuation date was March 1, 2012. *See* Ind. Code § 6-1.1-4-4.5(f). For the 2013 assessments, the valuation date was March 1, 2013. *Id.*

- c) Here, the Petitioner offered the same argument and evidence for each of the eight properties under appeal, regardless of the year under appeal. Thus, the Board will examine the evidence as a whole.
- d) The Petitioner proposed a value for each property. While Mr. Thompson testified he acquired all of the parcels either through purchase or as a gift, the Board finds little evidence that his requested values are based on his “purchase prices.” The Petitioner testified to a specific purchase price for two of the properties. Mr. Thompson purchased the property at 107 Oakland for \$250, but requested an assessment of \$600. Mr. Thompson also purchased the property at 1472 Tippecanoe for \$600. While he did not request a specific assessment for this property at the hearing, he did list a requested assessment of \$600 on his Form 131. Regarding the other six properties, Mr. Thompson either testified they were “given” to him or failed to offer any explanation as to how they were acquired.
- e) The purchase price of a property can be the best evidence of its value. *See Hubler Realty Co. v. Hendricks Co. Ass’r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (finding that the Board’s determination assigning greater weight to the property’s purchase price than its appraised value was proper and supported by the evidence). Here, to the extent the Petitioner actually relied on purchase prices, there is no evidence that the transactions meet the conditions for a market sale. As explained in the Manual, market value is:

[T]he most probable price, as of a specified date, in cash, or terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell *after reasonable exposure in a competitive market* under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming neither is under undue duress.

MANUAL at 5-6 (emphasis added).

- f) Mr. Thompson testified he “does not know” if the properties he purchased had been listed on the open market prior to him acquiring them. According to the evidence presented, it appears Mr. Thompson acquired the properties he purchased through private transactions. Thus, for the properties that were actually purchased, the Board is unable to conclude the purchase price was indicative of the properties’ market value.
- g) Further, Mr. Thompson testified he acquired all of the properties either in or prior to 2008. Thus, the purchase prices are not relevant to the March 1, 2012, and March 1, 2013, assessment dates. Granted, Mr. Thompson suggested his purchase prices could be trended forward to the relevant assessment dates, but he failed to offer such a computation or provide the data required to perform the trending. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Ass’r*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004)

(“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”). For these reasons, the purchase prices, to the extent they were revealed, are not probative of the properties’ market value-in-use.

- h) The Petitioner also offered evidence regarding two purportedly comparable properties. While it is not entirely clear, the Board will assume Mr. Thompson was attempting to use the sales-comparison approach to support his requested values. *See* MANUAL at 9 (stating that the sales-comparison approach relies on “sales of comparable improved properties and adjusts the selling prices to reflect the subject property’s total value.”) In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- i) Here, the Petitioner failed to explain how the two purportedly comparable properties were comparable to any of the eight properties under appeal. Mr. Thompson also failed to make any adjustments to account for differences between the properties. Additionally, Mr. Thompson did not produce indicated values for any of the properties. For these reasons, Mr. Thompson’s evidence fails to prove the subject properties’ values, and fails to support his requested values.
- j) Consequently, the Petitioner’s evidence, overall, is not probative. Thus, he failed to make a prima facie case for reducing the assessments. While the result is the same for all eight properties, this finding is uniquely applied to the property located at 328 North 14<sup>th</sup> because the Petitioner appealed both the 2012 and 2013 assessment years. The Petitioner failed to make a prima facie case for reducing the 2012 assessment for this property, therefore he had the burden of proof again for the 2013 assessment year. For the same reasons, the Petitioner failed to make a prima facie case for reducing the 2013 assessment.
- k) In summary, the Petitioner failed to make a prima facie case that the 2012 or 2013 assessments for any of the properties are incorrect. Where the Petitioner has not supported his claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

**Conclusion**

20. The Board finds for the Respondent.

**Final Determination**

In accordance with these findings and conclusions, the 2012 and 2013 assessments will not be changed.

ISSUED: April 11, 2017

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court’s rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court’s rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.

**LIST OF PETITION NUMBERS AND PARCEL NUMBERS**

<b><u>Petition Number</u></b>	<b><u>Parcel Number</u></b>	<b><u>Address</u></b>
84-002-12-1-5-20033-15	84-06-22-254-025.000-002	328 North 14 <sup>th</sup>
84-002-13-1-5-20047-15	84-06-22-254-025.000-002	328 North 14 <sup>th</sup>
84-002-13-1-5-20036-15	84-06-10-282-005.000-002	2881 North 16 <sup>th</sup>
84-002-13-1-5-20035-15	84-06-10-429-010.000-002	2610 North 17 <sup>th</sup>
84-002-13-1-5-20037-15	84-06-10-482-008.000-002	1541 Grand
84-002-13-1-5-20048-15	84-06-23-236-005.000-002	107 Oakland
84-002-13-1-5-20045-15	84-06-27-132-019.000-002	511 South 13 <sup>th</sup>
84-002-13-1-5-20038-15	84-06-22-211-018.000-002	1472 Tippecanoe
84-002-13-1-5-20043-15	84-06-22-254-022.000-002	1355 Liberty